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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Pitcairn

Working paper prepared by the Secretariat

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I. Background information

1. Pitcairn is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland.[1] The Territory is located midway between Australia and South America at 25°S and 130°W. It comprises four islands in the eastern Pacific Ocean: Pitcairn, the only inhabited island (named after Robert Pitcairn, a midshipman who sighted it in 1767), Henderson, Ducie and Oeno. Although there is evidence of previous settlements by Polynesian peoples, Pitcairn was uninhabited when castaways from HMS *Bounty* (9 mutineers and 19 Polynesians) arrived there in 1790. Today, Pitcairn is inhabited partly by their descendants. The population of Pitcairn has been declining steadily since 1937, when it was approximately 200. As at 1 January 2004, the total population of the Territory was 47. It is usual for young people to leave the Territory at the age of 15 (usually in their third year of secondary schooling) to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years. The entire population lives in Adamstown, the only settlement in Pitcairn.

2. The terrain in Pitcairn is of rugged volcanic formation, with a rocky coastline and cliffs lining nearly the entire perimeter of the island, giving no easy access from the sea. Although canoes can be launched in many places, Bounty Bay and the Tedside landing are the only two places on the island that offer a reasonably safe landing. Ships visiting the island remain at anchor some distance from the shoreline and visitors are ferried to the island in longboats. Pitcairn enjoys a subtropical climate. Mean monthly temperatures vary from around 19°C in August to 24°C in February.

3. The official languages are English and Pitkern, which is a mixture of eighteenth century English and Tahitian.

II. Constitutional structure and legal system

4. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 are in effect the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him and is discharged by him and his subordinate officers. The current Governor of Pitcairn is Richard Fell.

5. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an Order in Council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures. The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them. In response to requests from the

island for closer integration with the Governor's Office, a Governor's Representative has been stationed on the island since early 2003 to provide a direct line of communication to and from the Governor's Office.

6. Pitcairn Islanders manage their internal affairs through the Island Council. The Council was established by the Local Government Ordinance, which confers on it the duty to provide for the enforcement of the laws of Pitcairn and empowers it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders.

7. The Council is required to meet at least once a month. It consists of 10 members: the Island Mayor, who is elected every three years; the Chairman of the Internal Committee, who is elected annually; four Councillors, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, one of whom is appointed annually by the other members of the Council.

8. In December 1999, Pitcairn elected its first Mayor, thus ending the century-old practice of naming a magistrate to head the local government. In November 2004, the Island Council appointed the island's first female Mayor, Brenda Christian, ahead of full elections next year. The previous mayor was relieved of his functions when he was found guilty of serious sexual offences during trials held between September and November 2004 (see para. 36 below).

9. The decisions of the Island Council are implemented by the Internal Committee, whose formal functions are to carry out the orders of the Council and to perform such duties as the Council may direct. In practice, the principal function of the Committee is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are responsible. The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

10. The Island Secretary and other non-elected officials (such as the postmaster, the radio officer and the police officer) are appointed by the Governor, invariably after consultation with the Council.

11. In order to vote in the Territory, individuals must have three years' residence in the Territory and be at least 18 years of age. Candidates for the posts of Mayor and Councillor must be at least 21 years of age and have resided on the island for three years. The Island Secretary prepares the register of voters in October of each year, and elections are held annually during the first two weeks in December.

12. An Island Magistrate is appointed from among the residents of Pitcairn and sits in the Magistrate's Court with or without assessors. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries together with civil litigation up to a prescribed level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil causes outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal

may be made to the Pitcairn Court of Appeal, comprising three judges, and the Privy Council.

13. Pitcairn's Constitution, as embodied in the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970, does not contain any provisions expressly guaranteeing human rights.

14. According to the administering Power however, the Magistrate's Court and the Supreme Court both have inherent jurisdiction governing human rights in particular areas arising out of the laws in force in the islands. The Governor has the ultimate responsibility for overseeing the implementation of human rights in Pitcairn. Any complaint of unlawful or oppressive action by any government official or authority can be raised with him, either directly or through one of his subordinate officers, and will be investigated thoroughly. If the complaint proves to be well-founded, he has the power to take appropriate remedial measures.

15. According to the administering Power, the Human Rights Act of the United Kingdom is taken to be a statute of general application, which is also in force in Pitcairn. The laws in force in Pitcairn, including those specifically related to human rights, are published by the Government of the United Kingdom and are accessible to all on the island through the office of the Island Secretary.

III. Economy

16. The principal sources of income for Pitcairn's public economy are the sale of postage stamps and the ".pn" Internet domain name. In 2003 and 2004, public expenditure was 927,000 New Zealand dollars (NZ$) and income was NZ$ 299,096, leaving a deficit of NZ$ 628,508. The shortfall was met from the Pitcairn Investment Fund, which was managed by an asset management company on behalf of the Pitcairn Administration. The Investment Fund was set up in the early 1990s with funds generated from the high number of stamp sales. Sales have since declined and the Investment Fund is now empty. Since December 2004, Pitcairn's costs have been met by budgetary assistance from the United Kingdom Government's Department for International Development. With the assistance of the new Island Commissioner, Leslie Jaques, appointed by the Governor in 2003, a number of projects have been planned with a view to creating a sustainable income for the island and improving circumstances for its inhabitants. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union (see paras. 25 and 29 below).

17. The private economy of Pitcairn depends on gardening and trading, manufacturing and the sale of carvings, basket work and other handicrafts as well as the export of dried fruit, honey and honey products. Bartering, mainly with passing ships, is an important part of the economy. The fertile soil of the valleys produces a wide variety of fruits and vegetables, including breadfruit, citrus, sugar cane, watermelons, bananas, yams and beans. Fish is the main source of protein in the Islanders' diet. Pitcairn exports fruits, vegetables and handicrafts and imports fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs.

18. The Territory also exports honey, which has been found by the New Zealand Ministry of Agriculture and Forestry to be an exceptionally pure product. The

isolation of Pitcairn is said to work to the advantage of beekeepers; the bees already brought in 1978 and 1992 are certified pure and disease-free. Strict laws on the island prohibit bringing in any outside honey or used beekeeping supplies. The honey business is a labour-intensive operation, as honey is poured by hand into 250-gram bottles for export. It is estimated that about 3,000 bottles a year can be produced. Pitcairn has begun to develop a dehydrated fruit industry; it exports dried bananas, mangoes and pineapples. It is hoped that an increase in Pitcairn's food export business will add substantially to the Territory's economy. Pitcairn's products are sold in New Zealand, Japan and the United States of America and a Pitcairn Island Producers' Cooperative has been established to handle marketing. Although there is no taxation in the Territory, each person between 15 and 65 years of age is required to perform public work each month in lieu of taxation.

19. The uninhabited island of Henderson, designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1988, is the largest of the group and the most productive of the three satellite islands. Pitcairners usually travel there once a year, staying a few days to collect a year's supply of miro wood, which they use to produce their carvings, and to undertake layering of young miro branches in an effort to ensure a sustainable crop for years to come. The journey by longboat may take about 14 hours each way, depending on weather conditions. The Islanders also make the voyage to Oeno, known as their "holiday island", once a year for a week of fishing and gathering coconuts and shells. Traditionally, the fish caught on these expeditions is shared equally among the families in the Territory.

20. A number of Pitcairn items are available directly from Pitcairn through the Internet. Two websites sell Pitcairn products, including wood carvings, woven baskets, jewellery, honey, dried fruit, painted leaves and other items. When paying for orders by cheque, customers are advised to leave their cheques undated because of the long time it takes to process them. Customers must allow up to six months or more for delivery.

21. Internet users worldwide can acquire a ".pn" suffix that is permanently awarded to Pitcairn. The fees for the acquisition of a ".pn" domain are 200 United States dollars (US$) for the first registration, which covers two years, and US$ 100 for the annual renewal. Information for Internet users wishing to acquire the ".pn" domain is available through the official website of the Government of Pitcairn.

22. Land was traditionally held under a system of family ownership, based on the original division of the island by the mutineers and subsequently modified following the return of some Pitcairn Islanders from Norfolk Island in 1859. Land legislation enacted in 1967 provided for the formal administration of the estates of deceased landowners. While it also sought to rationalize the customary land tenure system, it was largely ineffective in this respect and by the late 1970s, owing mainly to emigration, most of Pitcairn was owned by Pitcairn Islanders who no longer lived on the island. Legislation enacted in 2000 is intended to ensure that every Pitcairn Islander is entitled to an allocation of house, garden, orchard and forestry land "sufficient to meet their needs" for as long as they live on Pitcairn. An annual land tax payable on all land held by non-residents of the Territory, or on land held by residents "in excess of his or her reasonable needs", is aimed at ensuring that sufficient land is available for reallocation through the Land Court, upon application. Only Pitcairn Islanders by birth or naturalization, their children or

grandchildren (having reached the age of 18 years) are eligible to apply for an allocation. They must be resident at the time of application and must intend to remain so. This legislation has not yet been put into effect.

23. A cooperative store, established in 1967, is open three times a week for a short period. Basic food commodities are obtainable when supplies are available. Flour, eggs, meat and butter, which must be imported from New Zealand, are available only if ordered several months in advance.

24. Diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. Islanders use the radio to communicate on the island. For many years, ham radio communications were the mainstay of Pitcairn's contact with the outside world, but nowadays overseas communications are maintained through surface mail, satellite phone and the Internet. The Internet was introduced to the island in 2002 and was upgraded in 2004 to provide broader bandwidth. While live television has not yet reached the island, videotapes are very popular.

25. According to information provided by the administering Power, the British Government worked with the Pitcairn Island Government throughout 2003 to prepare the planning framework for the release of money from the European Union's European Development Fund. Through the Development Fund, NZ$ 4.26 million (US$ 3.1 million) was recently made available for transport and communications development on Pitcairn.

26. Individuals wishing to visit Pitcairn must first obtain a licence to land and reside there from the Office of the Commissioner for Pitcairn Island in New Zealand. Licences are issued for six months and may be renewed for further similar periods by the Governor. The Island Mayor, subject to the direction of the Governor, is empowered to grant access ashore to crew members or passengers of any visiting vessel.

27. Access to Pitcairn is possible only by sea, usually by container vessels plying between New Zealand and the United Kingdom or from the eastern seaboard of the United States or the Caribbean, via the Panama Canal. A number of cruise ships also call at Pitcairn. Charter boats from Mangareva in French Polynesia are increasingly being given access to the island.

28. There are no hotels or guest houses on Pitcairn, but accommodation for visitors may be arranged through prior application to the Island Mayor with one of the local families.

29. Until 1964, there were no vehicles on the island. Four-wheeled motorbikes (quadbikes) are now a common mode of transport, as all roads are unpaved. Following feasibility studies undertaken in 2003, the British Government announced that 1.9 million pounds sterling (NZ$ 5.3 million) had been made available for engineering and repair works on Pitcairn. Key projects include upgrading and sealing the "Hill of Difficulty", which leads from the island landing at Bounty Bay to Adamstown, and repair work to the jetty and slipway from which the island's longboats are launched. Engineers were on the island in late November 2004 and heavy machinery was due to arrive in late February 2005 with construction work on the Hill of Difficulty, slipway and jetty expected to begin shortly after. At present, the road, which is prone to washouts owing to the frequent storms that sweep over the island, must be repaired constantly.

30. The British Government has undertaken a programme of construction on the island. New buildings include a six-bedroom house, a warehouse and a prison facility. The government lodge, schoolhouse and the hostel, where the Governor's representative lives, have all been renovated.

IV. Social and educational conditions

31. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities or perform communal services. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of the public boats. Installations in the Bay are provided mainly from general revenue and grants from the United Kingdom. The only jobs in the Territory are government posts, which are normally reserved for permanent residents of Pitcairn. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

32. Education is free and compulsory for all children between 5 and 15 years of age. The school is operated and financed by the Government. Instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a trained teacher recruited from New Zealand, usually for a one-year term. According to the administering Power, four students were enrolled in school in 2004. Post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary education is encouraged by the grant of bursaries and a number of students have received secondary education in New Zealand at the expense of the Government of Pitcairn.

33. Some Pitcairn Islanders are members of the Seventh-Day Adventist Church, which was established in the Territory over a century ago and is the only church on the island. The Church is run by the church board and the resident pastor.

34. The Pitcairn Island Health Centre, completed in 1997, was funded by the United Kingdom Government Overseas Development Administration. It has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner, recruited from New Zealand, is stationed on the island on a three-month rotation, assisted by an assistant nurse and a local dental officer, who also acts as an X-ray technician. According to information provided by the administering Power, the Government has also recently funded a social welfare programme, which ensures the presence of two social workers on the island at all times.

35. Pitcairn Island has a museum, which displays a number of artefacts and items, some of which have been donated and loaned by people from all over the world. Artefacts on display include stone tools made by Polynesians prior to the arrival of the mutineers. A new museum building is under construction, following a grant from the Government of the United Kingdom.

36. According to the administering Power, there is ongoing public concern over allegations of serious sexual offences against young persons on Pitcairn, including numerous criminal charges of rape and indecent assault. At trials held on the island between September and November 2004, six men were found guilty on a number of counts. Proceedings are currently adjourned pending hearings of legal arguments on preliminary issues and appeals to the Privy Council.

37. The situation has been viewed with concern by the islanders, since, among other things, it takes four men to handle the longboats, which take passengers to and from the island. According to the administering Power, three of the men who received custodial sentences are able-bodied men who can assist in the handling of the longboats. In addition, prison regulations allow prisoners on the island to work outside the prison under supervision and, in certain circumstances, to be temporarily released for employment. According to information provided by the administering Power, this will be a matter for the prison authorities to decide upon.

V. Future status of the Territory

A. Position of the territorial Government

38. The representative of the Island Mayor participated, as an expert, in the Pacific regional seminar on decolonization, held at Madang, Papua New Guinea, from 18 to 20 May 2004. According to the representative, in the past few months the people of Pitcairn had perceived a marked and positive shift in the administering Power's attitude towards the Territory. The unparalleled and exclusive attention given to the Pitcairn judicial system since 1999 had resulted in a strong feeling of mistrust, self-doubt and helplessness within the island community. He said that the ongoing criminal proceedings had had a profoundly damaging effect on the Pitcairn community. The representative discussed the challenge to British sovereignty presented by the defence counsel in the Pitcairn Supreme Court, in which counsel had argued that Pitcairn was independent and not subject to British law, and provided a summary of the 66-page judgement. The representative noted that there had been renewed efforts and resources applied to other key sectors of Pitcairn, including the economy, telecommunications and health sectors, by the administering Power, which had gone some way towards addressing the imbalance, but more work was required before the community's confidence could be fully restored and its long-term security assured.

39. The representative read extracts from a report, dated 9 May 2004, by the Commissioner for Pitcairn to the Island Council, illustrating the range of planning and work currently under way to benefit the Pitcairn community. With regard to shortfalls in revenue, efforts were being made, in consultation with the Island Council, to focus on development initiatives within a suggested time frame of three years. One planned investment was to boost honey production; another was an interactive website, commissioned to promote the sale of postage stamps, coins, curios and the *Pitcairn Miscellany*. Discussions had also been held with tour operators in the Falkland Islands (Malvinas), who run a successful ecotourism and adventure tourism operation. Lastly, a Department for International Development-sponsored report had been commissioned to establish the potential of Pitcairn's fish and mineral resources within its exclusive economic zone.

40. The representative also noted that communication between Pitcairn and the Pitcairn Office (formerly the Pitcairn Island Administration Office) in Auckland, the Governor's Office in Wellington and the Foreign Commonwealth Office in London had improved. He welcomed this development. He added that, in the absence of an island civil service, documentation of policies and procedures in plain English would assist the Island Council in conducting local government business more effectively and efficiently.

41. The representative pointed out various other issues, including that a doctor, rotated every three months, was now resident on the island and that medical equipment was being upgraded. He noted that an upgrading of Pitcairn's power generator had commenced, that an investigation into wind-generated power, commissioned by the Department for International Development, was under way and that a prototype installation might follow shortly. The representative also announced that the Internet bandwidth was about to increase and that homes on the islands had enjoyed free Internet access since April 2004. It was hoped that an affordable phone service would follow. Lastly, he noted that planning for an airstrip was at an advanced stage.

42. With regard to self-determination, the representative reiterated that the people of Pitcairn did not fully understand all the possibilities or the significance of the various self-determination options that might be available to them. The attention demanded by the new projects mentioned above had also served as a diversion. Knowing that Pitcairn's constitutional review had been deferred until after 2006, he added that it seemed logical to precede this process with discussions on self-determination. To that end, he said that Pitcairn would gain maximum benefit in understanding its political future from a United Nations visiting mission. He added that Pitcairn also remained eager to develop, with the Special Committee and the Government of the United Kingdom, a work programme in accordance with the Committee's proposal of 2000 (see A/AC.109/2001/2).

B. Position of the administering Power

43. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that his Government again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it had last met.

44. The representative stated that the partnership between the United Kingdom and its overseas territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council held in London in September 2004, which had been chaired by Bill Rammell, Minister for the Overseas Territories, provided a forum for dialogue between the representatives of the Territories and the United Kingdom Government. The meeting in 2004 presented an opportunity for discussion on the relationship between the United Kingdom and the Territories, constitutional modernization issues, sustainable development, including good governance and environmental matters, and other issues relating to the United Kingdom's international obligations.

45. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. The visits had enabled him to meet a broad range of people in the two Territories and to get a better, first-hand knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own territories.

46. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Officials of the Government had held useful and productive discussions over the past year with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

47. Conscious of the limited resources in a number of the territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare and a study on alternatives to custodial sentencing.

48. He recalled that, in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Overseas Territories Environment Charters, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004 and 2005, of which three were multiterritory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

49. Regrettably the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

50. In response to requests from some Overseas Territories for help in accessing economic, trade and development assistance of the European Commission, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the decision of the Overseas Association of the European Union-Overseas Countries and Territories of November 2001.

51. The United Kingdom continued its informal cooperation with the Special Committee. In May 2004, a representative of the Government attended a seminar of the Special Committee in Papua New Guinea at which he presented a paper on

constitutional developments in the United Kingdom Territories. Perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the secretariat was directly in touch with Bermuda on preparing for this.

C. Consideration by the General Assembly

52. On 10 December 2004, the General Assembly adopted, without a vote, resolutions 59/134 A and B. Section VIII of resolution 59/134 B is specifically devoted to Pitcairn and states that the General Assembly:

> "*Taking into account* the unique nature of Pitcairn in terms of population and area,
>
> "*Welcoming* the participation of a representative of the Mayor of Pitcairn in the Pacific regional seminar, held in Madang, Papua New Guinea, from 18 to 20 May 2004, and taking note of the positive developments in the Territory,
>
> "*Requests* the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the representatives of Pitcairn on how best to support its economic security".

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, and from published sources.